

ENVIRONMENTAL PROTECTION COMMISSION[567]

Notice of Intended Action

Proposing rule making related to cleanup of wastewater rules and providing an opportunity for public comment

The Environmental Protection Commission hereby proposes to amend Chapter 60, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 61, “Water Quality Standards,” Chapter 62, “Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions,” Chapter 63, “Monitoring, Analytical and Reporting Requirements,” and Chapter 64, “Wastewater Construction and Operation Permits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 455B.173, 455B.197 and 455B.199B.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 455B.173, 455B.174, 455B.183, 455B.197, and 455B.199B and 40 CFR Parts 122, 124, 127, 130, 136, 153, 300, 441, and 503.

Purpose and Summary

Chapters 60 through 64, collectively, regulate wastewater treatment and disposal. In brief, the proposed amendments align the rules with both state and federal law, clarify regulatory requirements, correct wastewater terms, remove obsolete form references, and provide clarity regarding electronic form submittal.

In more detail, the proposed amendments make the following changes:

Chapter 60, “Scope of Division—Definition—Forms—Rules of Practice”:

- Update definitions, remove obsolete forms, and add language to allow for the electronic submittal of forms.

Chapter 61, “Water Quality Standards”:

- Correct a mistake contained in the Adopted and Filed rule, effective on November 11, 2020, published in the Iowa Administrative Bulletin as **ARC 5226C** on October 7, 2020. A portion of a footnote that was struck in the Notice of Intended Action (**ARC 5044C**) was inadvertently left out of the Adopted and Filed rule.

Chapter 62, “Effluent and Pretreatment Standards: Other Effluent Limitations or Prohibitions”:

- Update the date reference for the federal effluent and pretreatment standards in the Code of Federal Regulations (CFR), and add a reference to the new federal dental effluent limitation guidelines.

Chapter 63, “Monitoring, Analytical and Reporting Requirements”:

- Add references to federally approved analytical testing methods (40 CFR Part 136), and clarify requirements for testing methods, alternative test procedures, and method modifications;

- Update the date of adoption by reference of Supporting Document for Permit Monitoring Frequency Determination to ensure that monitoring frequencies in permits are determined using the most recent water quality standards;

- Update the guidelines for whole effluent toxicity testing by removing outdated language and by referencing current test procedures;

- Add new language regarding electronic reporting and paper submittal of operation records for National Pollution Discharge Elimination System (NPDES) permittees, except for animal feeding operation permittees, to reflect the federal NPDES permit electronic reporting rule;
- Clarify land application monitoring requirements to ensure they are appropriate for each facility;
- Rescind the table for preservation techniques, containers, and holding times, and replace it with a reference to the federal rule's current table; and
- Move the monitoring well sampling procedures from Table VI to a new subrule.

Chapter 64, “Wastewater Construction and Operation Permits”:

- Update the CFR citations;
- Simplify and clarify the general permit language regarding fees, suspension and revocation, and public notice to match the requirements in the reissued and new general permits;
- Allow land application operation permits to be effective for longer than five years;
- Update the public notice and public hearing language to comply with 40 CFR Section 124.10, remove obsolete requirements, and allow for electronic communication;
- Update the disadvantaged community eligibility requirements to be consistent with Iowa Code section 455B.199B;
- Adopt the fee language from Iowa Code section 455B.197; and
- Add new language regarding the nutrient reduction exchange to ensure that investments in nonpoint source best management practices qualify for future regulatory incentives.

Fiscal Impact

After analysis and review of this rule making, no fiscal impact to the State of Iowa is anticipated from this proposed rule making. A copy of the fiscal impact statement is available from the Department of Natural Resources (Department) upon request.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found. A copy of the jobs impact statement is available from the Department upon request.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 561—Chapter 10.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 10, 2021. Comments should be directed to:

Courtney Cswercko
Iowa Department of Natural Resources
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319
Email: courtney.cswercko@dnr.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally will be held via conference call as follows. Persons who wish to attend the conference call should contact Courtney Cswercko via email. A

conference call number will be provided prior to the hearing. Persons who wish to make oral comments at the conference call public hearing must submit a request to Courtney Cswercko prior to the hearing to facilitate an orderly hearing.

December 8, 2021
2 to 4 p.m.

Via video/conference call

Persons who wish to make oral comments at the public hearing will be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **567—60.2(455B)**, definitions of “Act,” “CFR,” “Continuing planning process (CPP),” “Private sewage disposal system,” “Regional administrator” and “Shallow well,” as follows:

“Act” means the Federal Water Pollution Control Act as amended through ~~July 1, 2007~~ July 1, 2021, 33 U.S.C. §1251 et seq.

“CFR” or “Code of Federal Regulations” means the federal administrative rules adopted by the United States in effect as of ~~January 1, 2015~~ July 1, 2021. The amendment of the date contained in this definition shall constitute the amendment of all CFR references contained in 567—Chapters 60 to 69, Title IV, unless a date of adoption is set forth in a specific rule.

“Continuing planning process (CPP)” means the continuing planning process, including any revision thereto, required by Sections 208 and 303(e) of the Act (33 U.S.C. §§1288 and 1313(e)) for state water pollution control agencies. The continuing planning process is a time-phased process by which the department, working cooperatively with designated areawide planning agencies:

a. Develops a water quality management decision-making process involving elected officials of state and local units of government and representatives of state and local executive departments that conduct activities related to water quality management.

b. Establishes an intergovernmental process (~~such as coordinated and cooperative programs with the state conservation commission in aquatic life and recreation matters, and the soil conservation division, department of agriculture and land stewardship in nonpoint pollution control matters~~) which provides for water quality management decisions to be made on an areawide or local basis and for the incorporation of such decisions into a comprehensive and cohesive statewide program. Through this process, state regulatory programs and activities will be incorporated into the areawide water quality management decision process.

c. Develops a broad-based public participation (such as utilization of such mechanisms as basin advisory committees composed of local elected officials, representatives of areawide planning agencies, the public at large, and conservancy district committees) aimed at both informing and involving the public in the water quality management program.

d. Prepares and implements water quality management plans, which identify water quality goals and established state water quality standards, defines specific programs, priorities and targets for preventing and controlling water pollution in individual approved planning areas and establishes policies which guide decision making over at least a 20-year span of time (in increments of 5 years).

e. Based on the results of the statewide (state and areawide) planning process, develops the state strategy to be updated annually, which sets the state's major objectives, approach, and priorities for preventing and controlling pollution over a five-year period.

f. Translates the state strategy into the annual state program plan (required under Section 106 of the federal Act), which establishes the program objectives, identifies the resources committed for the state program each year, and provides a mechanism for reporting progress toward achievement of program objectives.

g. Periodically reviews and revises water quality standards as required under Section 303(c) of the federal Act.

"Private sewage disposal system" means a system which provides for the treatment or disposal of domestic sewage from four or fewer dwelling units or the equivalent of less than 16 individuals on a continuing basis, including domestic waste, whether residential or nonresidential, but not including industrial waste of any flow rate except as provided for in 567—68.11(455B). ~~This includes domestic waste, whether residential or nonresidential, but does not include industrial waste of any flow rate.~~ "Private sewage disposal system" includes, but is not limited to, septic tanks, holding tanks for waste, chemical toilets, impervious vault toilets and portable toilets.

"Regional administrator" means the regional administrator of the United States Environmental Protection Agency, Region VII, ~~901 N. 5th Street, Kansas City, Kansas 66101~~ 11201 Renner Blvd., Lenexa, Kansas 66219, or the authorized representative of the regional administrator.

"Shallow well" means a well located and constructed in such manner that there is not a continuous 5-foot layer of low permeability soil or rock ~~between the aquifer from which the water supply is drawn and a point 25 feet below the normal ground surface~~ (or equivalent retarding mechanism acceptable to the department) at least 5 feet thick, the top of which is located at least 25 feet below the normal ground surface and above the aquifer from which water is to be drawn.

ITEM 2. Adopt the following new definitions of "Individual non-storm water permit" and "Individual storm water permit" in rule ~~567—60.2(455B)~~:

"Individual non-storm water permit" means a site-specific NPDES or operation permit that is not an individual storm water permit and that authorizes discharges of sewage, industrial waste, or other waste and allowable discharges of storm water associated with industrial activity, as specifically noted in the permit.

"Individual storm water permit" means an individual site-specific NPDES permit that authorizes discharges composed entirely of storm water associated with industrial activity or construction activity and other allowable non-storm water discharges as specifically noted in the permit.

ITEM 3. Amend rule 567—60.3(455B,17A), introductory paragraph, as follows:

567—60.3(455B,17A) Forms Wastewater forms. The following construction permit application forms and operation and NPDES permit forms provided by the department shall be used to apply for departmental approvals and permits and to report on activities related to the department's wastewater programs ~~of the department~~. Electronic forms may be accessed on the department's website or obtained from the appropriate regional field office. Paper forms, when available, may be obtained from the ~~website of the department~~ department's website or by contacting the appropriate regional field office. Properly completed application forms, reporting forms, and all attachments shall be submitted in accordance with the department instructions. ~~Reporting forms shall be submitted to the appropriate field office.~~

ITEM 4. Rescind and reserve subrules **60.3(2)** and **60.3(3)**.

ITEM 5. Amend paragraph **60.4(2)"a"** as follows:

a. *General.* A person required to obtain or renew a wastewater operation permit or an Iowa NPDES permit pursuant to 567—Chapter 64, 567—Chapter 65, or 567—Chapter 69 must complete the appropriate application form as identified in ~~subrule 60.3(2)~~ 567—60.3(455B,17A).

(1) Complete applications. A permit application is complete and approvable when all necessary questions on the application ~~forms~~ have been completed and the application is signed pursuant to

567—subrule 64.3(8), and when all applicable portions of the application, including the application fee and required attachments, have been submitted. The director may require the submission of an antidegradation alternatives analysis or other additional information deemed necessary to evaluate the application. The due date for a renewal application is 180 days prior to the expiration date of the current permit, as noted in 567—64.8(455B). For a POTW, permission to submit an application at a later date may be granted by the director. The due date for a new application is 180 days prior to the date the operation is scheduled to begin, unless a shorter period is approved by the director.

(2) and (3) No change.

ITEM 6. Amend paragraph **60.4(2)“b,”** introductory paragraph, as follows:

b. Amendments. A permittee seeking an amendment to its operation permit shall make a written request ~~in the form of a detailed letter~~ to the department which shall include the nature of and the reasons supporting the requested amendment. A variance waiver or amendment to the terms and conditions of a general permit shall not be granted. If a variance waiver or amendment to a general permit is desired, the applicant must apply for an individual permit following the procedures in 567—paragraph 64.3(4) “a.”

ITEM 7. Amend subparagraph **60.4(2)“b”(3)** as follows:

(3) Monitoring requirements. An amendment request for a change in the minimum monitoring requirements in an existing permit is considered a variance waiver request. A request for a variance waiver shall include a ~~letter and the completed~~ Petition for Waiver ~~or Variance~~ form (542-1258). This form can be obtained from the ~~NPDES section as noted in 60.3(455B)~~ department’s website or by contacting the NPDES section. The requesting permittee must provide monitoring results which are frequent enough to reflect variations in actual wastewater characteristics over a period of time and are consistent in results from sample to sample. The department will evaluate the request based upon whether or not less frequent sample results accurately reflect actual wastewater characteristics and whether operational control can be maintained.

Upon receipt of a request, the department may grant, modify, or deny the request. If the request is denied, the department may notify the permittee of any violation of its permit and may proceed administratively on the violation or may request that the commission refer the matter to the attorney general for legal action.

ITEM 8. Amend subrule 61.3(3), TABLE 1, footnote (j), as follows:

- (j) The acute and chronic criteria listed in main table are based on a hardness of 200 mg/l (as CaCO₃ (mg/l)). Numerical criteria (µg/l) for lead are a function of hardness (CaCO₃ (mg/l)) using the following equations:

Acute	$(1.46203 - ((\ln \text{ hardness})(0.145712))) \times e^{[1.2731 \ln(\text{Hardness}) - 1.46]}$	$e^{[1.2731 \ln(\text{Hardness}) - 1.46]}$	$e^{[1.2731 \ln(\text{Hardness}) - 1.46]}$
Chronic	$(1.46203 - ((\ln \text{ hardness})(0.145712))) \times e^{[1.2731 \ln(\text{Hardness}) - 4.705]}$	$e^{[1.2731 \ln(\text{Hardness}) - 4.705]}$	$e^{[1.2731 \ln(\text{Hardness}) - 4.705]}$

ITEM 9. Amend rule 567—62.4(455B), introductory paragraph, as follows:

567—62.4(455B) Federal effluent and pretreatment standards. The federal standards, 40 ~~Code of Federal Regulations (CFR)~~ CFR, revised as of January 1, ~~2015~~ 2021, are applicable to the following categories:

ITEM 10. Adopt the following new subrule 62.4(41):

62.4(41) Dental office point source category. The following is adopted by reference: 40 CFR Part 441.

ITEM 11. Amend rule 567—63.1(455B) as follows:

567—63.1(455B) Guidelines establishing test procedures for the analysis of pollutants. Only the procedures prescribed in this chapter shall be used to perform the measurements indicated in an application for an operation permit submitted to the department, a report required to be submitted by the terms of an operation permit, and a certification issued by the department pursuant to Section 401 of the Act.

63.1(1) Identification of test procedures, application for alternative test procedures, and method modifications.

a. The following is adopted by reference: 40 Code of Federal Regulations (CFR) CFR Part 136 (Guidelines Establishing Test Procedures for the Analysis of Pollutants), as amended through August 28, 2017.

b. All parameters for which testing is required by a wastewater discharge permit, permit application, or administrative order, except operational performance testing, must be analyzed using one of the following:

(1) ~~An approved methods method~~ specified in 40 CFR Part Section 136.3 ~~or, under certain circumstances, by other methods that may be more advantageous to use when such other methods have;~~

(2) ~~An alternative method that has been previously approved by the director pursuant to 63.1(2).~~ pursuant to 40 CFR Section 136.4 or 136.5; or

(3) ~~A method identified by the department, when no approved method is specified for the parameter in 40 CFR Part 136.~~

Samples collected for operational testing pursuant to 63.3(4) need not be analyzed by approved analytical methods; however, commonly accepted test methods should be used.

c. Applications for alternative test procedures shall follow the requirements of 40 CFR Section 136.4 or 136.5.

d. Method modifications shall follow the requirements of 40 CFR Section 136.6.

63.1(2) Application for alternate test procedures.

a. ~~Any person may apply to the EPA regional administrator through the director for approval of an alternate test procedure.~~

b. ~~The application for an alternate test procedure may be made by letter and shall:~~

(1) ~~Provide the name and address of the responsible person or firm holding or applying for the permit (if not the applicant) and the applicable ID number of the existing or pending permit and type of permit for which the alternate test procedure is requested and the discharge serial number, if any.~~

(2) ~~Identify the pollutant or parameter for which approval of an alternate testing procedure is being requested.~~

(3) ~~Provide justification for using testing procedures other than those specified in 40 CFR Part 136.3.~~

63.1(3) ~~63.1(2)~~ Required containers, preservation techniques and holding times. All samples collected in accordance with self-monitoring requirements as defined in an operation permit shall comply with the container, preservation techniques, and holding time requirements as specified in Table IV 40 CFR Section 136.3, Table II (Required Containers, Preservation Techniques, and Holding Times). Sample preservation should be performed immediately upon collection, if feasible.

63.1(4) ~~63.1(3)~~ All laboratories conducting analyses required by this chapter must be certified in accordance with 567—Chapter 83. Routine on-site monitoring for pH, temperature, dissolved oxygen, total residual chlorine, other pollutants that must be analyzed immediately upon sample collection, settleable solids, physical measurements such as flow and cell depth, and operational monitoring tests specified in 63.3(4) are excluded from this requirement. All instrumentation used for conducting any analyses required by this chapter must be properly calibrated according to the manufacturer's instructions.

ITEM 12. Amend rule 567—63.3(455B) as follows:

567—63.3(455B) Minimum self-monitoring requirements in permits.

63.3(1) *Monitoring by organic waste dischargers.* The minimum self-monitoring requirements to be incorporated in operation permits for facilities discharging organic wastes shall be the appropriate requirements in Tables I, ~~II, and III~~ and II. Additional monitoring may be specified in the operation permit based on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, industrial contribution to the system, complexity of the treatment process, history of noncompliance or any other factor which requires strict operational control to meet the effluent limitations of the permit, as described in the Supporting Document for Permit Monitoring

Frequency Determination, ~~August 2008~~ [effective date of these amendments], located on the NPDES ~~Web site~~ department's website.

63.3(2) *Monitoring by inorganic waste dischargers.* The self-monitoring requirements to be incorporated in the operation permit for facilities discharging inorganic wastes shall be determined on a case-by-case evaluation of the impact of the discharge on the receiving stream, toxic or deleterious effects of wastewaters, complexity of the treatment process, history of noncompliance or any other factor which requires strict control to meet the effluent limitations of the permit, as described in the Supporting Document for Permit Monitoring Frequency Determination, ~~August 2008~~ [effective date of these amendments], located on the NPDES ~~Web site~~ department's website.

63.3(3) *Monitoring of significant industrial users of publicly owned treatment works.* Monitoring for significant industrial users as defined in 567—60.2(455B) shall be determined as described in the Supporting Document for Permit Monitoring Frequency Determination, ~~August 2008~~ [effective date of these amendments], located on the NPDES ~~Web site~~ department's website. Results of such monitoring shall be submitted to the department in accordance with the reporting requirements in the operation permit. The monitoring program of a publicly owned treatment works with a pretreatment program approved by the department may be used in lieu of the supporting document.

63.3(4) No change.

63.3(5) *Modification of minimum monitoring requirements.* Monitoring requirements may be modified or reduced at the discretion of the director when requested by the permittee. Adequate justification must be presented by the permittee that the reduced or modified requirements will accurately reflect actual wastewater characteristics and will not adversely impact the operation of the facility. Requests for modification or reduction of monitoring requirements in an existing permit are considered ~~variance~~ waiver requests and must follow the procedures in 567—paragraph 60.4(2) “b.” All reductions or modifications of monitoring incorporated into an operation or NPDES permit by amendment or upon reissuance of the permit are only effective until the expiration date of that permit.

63.3(6) *Impairment monitoring.* If a wastewater treatment facility is located in the watershed of an impaired water body that is listed on Iowa's most recent Section 303(d) list (as described in 40 CFR Section 130.7), additional monitoring for parameters that are contributing to the impairment may be included in the operation or NPDES permit on a case-by-case basis.

ITEM 13. Amend paragraphs **63.4(2)“a”** and **“b”** as follows:

a. ~~The effluent~~ Effluent toxicity tests shall be performed using a 24-hour composite sample of the effluent collected at the location stated in the operation permit. All composite samples shall be delivered to the testing laboratory within a reasonable time (approximately 24 hours) after collection, and all tests must commence within 36 hours following sample collection. The results of all effluent toxicity tests ~~conducted using approved procedures~~, including any tests performed at a greater frequency than required in the operation permit, shall be submitted to the department, ~~on Form 542-1381 provided by the department~~, within 30 days of completing the test.

b. All effluent toxicity tests shall be conducted using the test ~~methodologies~~ methods referenced in 40 CFR Part 136 and protocols described within “Standard Operating Procedure: Effluent Toxicity Testing, Iowa Department of Natural Resources,” March 1991. This procedure is adopted as part of this subrule and is filed as part of this subrule with the administrative rules coordinator. This procedure is an essential part of the testing procedures and is available upon request to the department although not printed in this subrule. Laboratories performing the effluent toxicity tests shall also have a quality assurance plan. in the EPA document EPA-821-R-02-012, Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, 5th edition, October 2002. All effluent toxicity tests shall be conducted by a laboratory certified in Iowa.

ITEM 14. Amend rule 567—63.7(455B) as follows:

567—63.7(455B) Submission of records of operation.

63.7(1) *Electronic reporting.* Except as provided in this rule and subrules 63.3(4) and ~~63.5(1)~~ 63.5(2), records of operation required by NPDES permits shall be submitted electronically to the

~~appropriate regional field office of the department~~ within 15 days following the close of the reporting period specified in 567—63.8(455B) and in accordance with monitoring requirements derived from this chapter and incorporated in the ~~operation~~ NPDES permit. Records of operation required by operation permits shall be submitted to the department within 15 days following the close of the reporting period specified in 567—63.8(455B) and in accordance with monitoring requirements derived from this chapter and incorporated in the operation permit.

63.7(2) *Temporary or permanent paper submittal of records of operation.* Upon satisfaction of the following criteria and written approval from the department, temporary or permanent paper submittal of records of operation may be allowed in lieu of electronic reporting.

a. Written request for paper submittal.

(1) To obtain an approval for temporary or permanent paper submittal of records of operation, a permittee must submit a paper copy of a written request to the NPDES Section, Iowa Department of Natural Resources, 502 East Ninth Street, Des Moines, Iowa 50319. The written request for paper submittal must include the following:

1. Facility name;
2. Individual NPDES permit number or general permit authorization number;
3. Facility address;
4. Owner name and contact information;
5. Name and contact information of the person submitting records of operation (if different than the owner); and
6. Reason for the request, including a justification of why electronic submission is not feasible at this time.

(2) Requests for paper submittal that do not contain all of the above information will not be considered. Electronic (email) requests for paper submittal will not be considered.

b. Temporary paper submittal.

(1) The department will approve or deny a request for temporary paper submittal of records of operation within 60 days of receipt of the request. Paper submittal requests shall be approved or denied at the discretion of the director.

(2) All approvals for temporary paper submittal will expire five years from department approval. After an approval for temporary paper submittal expires, the permittee must submit all records of operation electronically, unless another approval is obtained.

(3) Approved temporary paper submittals are nontransferable.

c. Permanent paper submittal.

(1) The department will approve or deny a request for permanent paper submittal of records of operation within 60 days of receipt of the request. Permanent paper submittal approvals shall only be granted to facilities and entities owned or operated by members of religious communities that choose not to use certain modern technologies (e.g., computers, electricity). Permanent approvals for paper submittal shall not be granted to any other facilities or entities.

(2) Approved permanent paper submittals are nontransferable.

d. Paper copies of records of operation. All permittees who have received temporary or permanent paper submittal approvals must submit paper copies of all records of operation to the department within 15 days following the close of the reporting period specified in 567—63.8(455B) and in accordance with monitoring requirements derived from this chapter and incorporated in the NPDES permit.

63.7(3) *Electronic reporting pursuant to NPDES general permits.*

a. General Permits 1, 2, 3, 4, and 5. Both electronic and paper reporting options are available to permittees covered under General Permits 1, 2, 3, 4, and 5. Electronic reporting using the options available on the department's website is strongly encouraged, but paper records of operation will be accepted. Paper submittal approval can be obtained by permittees covered under General Permits 1, 2, 3, 4, and 5 according to the procedures in 63.7(2).

b. Electronic reporting requirements for General Permits 8 and 9. Permittees covered under General Permits 8 and 9 are required to report electronically using the department's online database, unless a paper submittal approval is obtained according to the procedures in 63.7(2).

63.7(4) Episodic paper submittal of records of operation. In accordance with the following requirements, episodic paper submittal of records of operation may be allowed in lieu of electronic reporting. The department shall provide notice, individually or through means of mass communication, regarding when episodic paper submittal is allowed, the facilities and entities that qualify for episodic paper submittal, and the likely duration of episodic paper submittal. The department shall determine if and when episodic paper submittal is warranted.

a. Episodic paper submittal is only allowed under the following circumstances:

(1) Large scale emergencies involving catastrophic circumstances beyond the control of a permittee, such as forces of nature (e.g., hurricanes, floods, fires, earthquakes) or other national disasters.

(2) Prolonged electronic reporting system outages (i.e., outages longer than 96 hours).

b. Permittees are not required to request episodic paper submittal. If the department determines that episodic paper submittal is warranted, a permittee shall submit paper copies of all records of operation to the department within 15 days following the close of the reporting period specified in 567—63.8(455B) and in accordance with monitoring requirements derived from this chapter and incorporated in the NPDES permit.

c. Episodic paper submittal is not transferable and cannot last more than 60 days.

63.7(5) Instances of noncompliance. The permittee shall report all instances of noncompliance not reported under 567—63.12(455B) at the time monitoring reports are submitted.

63.7(6) Relevant facts. If a permittee becomes aware that it failed to submit any relevant facts in any report to the director, the permittee shall promptly submit such facts or information.

ITEM 15. Amend rule 567—63.8(455B) as follows:

567—63.8(455B) Frequency of submitting records of operation. Except as provided in subrules 63.3(4) and 63.5(1) 63.5(2), or as specified in an NPDES general permit issued in accordance with 567—64.4(455B), records of operation required by these rules shall be submitted at monthly intervals. The department may vary the interval at which records of operation shall be submitted in certain cases. Variation from the monthly interval shall be made only under such conditions as the department may prescribe in writing to the person concerned.

ITEM 16. Amend rule 567—63.10(455B) as follows:

567—63.10(455B) Records of operation forms. Records of operation forms shall be those provided by the department unless ~~its forms are not applicable and in such case the records of operation shall be submitted on such other forms as are agreeable to the department~~ a permittee has obtained approval from the department to use an alternative reporting form.

ITEM 17. Adopt the following new rule 567—63.16(455B):

567—63.16(455B) Sampling procedures for monitoring wells. The following steps shall be taken prior to monitoring well sampling.

63.16(1) Measure depth from top of well head casing to water table.

63.16(2) Calculate quantity of water to be flushed from well using the formula:

Gallons to be pumped = $0.221 d^2 h$, where:

d = well diameter in inches

h = depth in feet of standing water in well prior to pumping

63.16(3) Pump well.

63.16(4) Measure depth from well hand casing to water table after pumping.

63.16(5) Wait for well to recharge to or near static water level prior to sampling.

ITEM 18. Amend **567—Chapter 63**, Table I, superscript 4, as follows:

4 - Sample types are defined as:

“Grab Sample” means a representative, discrete portion of sewage, industrial waste, other waste, surface water or groundwater taken without regard to flow rate.

“24-Hour Composite” means:

- a. For facilities where no significant industrial waste is present, a sample made by collecting a minimum of six grab samples taken four hours apart and combined in proportion to the flow rate at the time each grab sample was collected. (Generally, grab samples should be collected at 8 a.m., 12 ~~a.m.~~ p.m. (noon), 4 p.m., 8 p.m., 12 ~~p.m.~~ a.m. (midnight), and 4 a.m. on weekdays (Monday through Friday) unless local conditions indicate another more appropriate time for sample collection.)
- b. For facilities where significant industrial waste is present, a sample made by collecting a minimum of 12 grab samples taken two hours apart and combined in proportion to the flow rate at the time each grab sample was collected. (Generally, grab samples should be collected at 8 a.m., 10 a.m., 12 ~~a.m.~~ p.m. (noon), 2 p.m., 4 p.m., 6 p.m., 8 p.m., 10 p.m., 12 ~~p.m.~~ a.m. (midnight), 2 a.m., 4 a.m., and 6 a.m. on weekdays (Monday through Friday) unless local conditions indicate another more appropriate time for sample collection.)

ITEM 19. Amend **567—Chapter 63**, Table II, superscript 9, as follows:

9 - Total nitrogen ~~shall be determined by testing for Total Kjeldahl Nitrogen (TKN) and nitrate + nitrite nitrogen and reporting the sum of the TKN and nitrate + nitrite results (reported as N).~~ (as N) is defined as Total Kjeldahl Nitrogen (as N) plus nitrate (as N) plus nitrite (as N). Nitrate + nitrite can be analyzed together or separately. Total phosphorus shall be reported as P. Analyses must be performed by a laboratory certified in Iowa.

ITEM 20. Rescind **567—Chapter 63**, Table III and Table IV.

ITEM 21. Amend paragraphs **64.2(9)“c”** to **“e”** as follows:

c. ~~Variance~~ Waivers from the design standards and siting criteria which provide in the judgment of the department for substantially equivalent or improved effectiveness may be requested when there are unique circumstances not found in most projects. The director may issue ~~variances~~ waivers when circumstances are appropriate. The denial of a ~~variance~~ waiver may be appealed to the commission.

d. When reviewing the ~~variance~~ waiver request the director may consider the unique circumstances of the project, direct or indirect environmental impacts, the durability and reliability of the alternative, and the purpose and intent of the rule or standard in question.

e. Circumstances that would warrant consideration of a ~~variance~~ waiver (which provides for substantially equivalent or improved effectiveness) may include the following:

(1) The utilization of new equipment or new process technology that is not explicitly covered by the current design standards.

(2) The application of established and acceptable technologies in an innovative manner not covered by current standards.

(3) It is reasonably clear that the conditions and circumstances which were considered in the adoption of the rule or standard are not applicable for the project in question and therefore the effective purpose of the rule will not be compromised if a ~~variance~~ waiver is granted.

ITEM 22. Amend paragraphs **64.3(1)“e”** and **“f”** as follows:

e. Water well construction and well services related discharge that does not reach a water of the United States as defined in 40 CFR ~~Part~~ Section 122.2.

f. Discharges from the application of biological pesticides and chemical pesticides where the discharge does not reach a water of the United States as defined in 40 CFR ~~Part~~ Section 122.2.

ITEM 23. Amend subrule 64.3(4) as follows:

64.3(4) Applications.

a. *Individual permit.* Except as provided in 64.3(4)“b,” applications for operation permits required under 64.3(1) shall be made on forms provided by the department, as noted in ~~567—subrule~~

~~60.3(2)~~ 567—60.3(455B,17A). The application for an operation permit under 64.3(1) shall be filed pursuant to 567—subrule 60.4(2). Permit applications for a new discharge of storm water associated with construction activity as defined in 567—Chapter 60 under “storm water discharge associated with industrial activity” must be submitted at least 60 days before the date on which construction is to commence. Upon completion of a tentative determination with regard to the permit application as described in 64.5(1)“a,” the director shall issue operation permits for applications filed pursuant to 64.3(1) within 90 days of the receipt of a complete application unless the application is for an NPDES permit or unless a longer period of time is required and the applicant is so notified.

b. General permit. A Notice of Intent (NOI) for coverage under a general permit ~~must~~ shall be made on ~~the appropriate form~~ forms provided by the department ~~listed in 567—subrule 60.3(2) as noted in 567—60.3(455B,17A)~~ and in accordance with 567—64.6(455B). ~~A Notice of Intent~~ An NOI must be submitted to the department according to the following:

(1) to (8) No change.

ITEM 24. Amend subrule 64.3(7) as follows:

64.3(7) Operation NPDES permits may be granted for any period of time not to exceed five years. ~~Applications~~ All other operation permits may be granted for an appropriate period of time as determined by the director, based on the type of wastewater disposal system being permitted. An application for renewal of an NPDES or operation permit must be submitted to the department 180 days in advance of the date the permit expires. General permits will be issued for a period not to exceed five years. Each permit to be renewed shall be subject to the provisions of all rules of the department in effect at the time of the renewal.

ITEM 25. Amend subrule 64.3(11), introductory paragraph, as follows:

64.3(11) The director may amend, revoke and reissue, or terminate in whole or in part any individual operation permit or coverage under a general permit for cause. Except for general permits, the director may modify in whole or in part any individual operation permit for cause. ~~A variance waiver~~ or modification to the terms and conditions of a general permit shall not be granted. If a variance waiver or modification to a general permit is desired, the applicant must apply for an individual permit following the procedures in 64.3(4)“a.”

ITEM 26. Amend subparagraph **64.3(11)“b”(8)** as follows:

(8) Causes listed in 40 CFR Sections 122.62 and 122.64.

ITEM 27. Amend paragraphs **64.4(1)“d”** and **“e”** as follows:

d. Any discharge in compliance with the instruction of an On-Scene Coordinator pursuant to 40 CFR Part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan) or 33 CFR Section 153.10(e) (Pollution by Oil and Hazardous Substances);

e. Any introduction of pollutants from ~~non-point~~ nonpoint source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands, except that this exclusion shall not apply to the following:

- (1) Discharges from concentrated animal feeding operations as defined in 40 CFR Section 122.23;
- (2) Discharges from concentrated aquatic animal production facilities as defined in 40 CFR Section 122.24;
- (3) Discharges to aquaculture projects as defined in 40 CFR Section 122.25;
- (4) Discharges from silvicultural point sources as defined in 40 CFR Section 122.27;

ITEM 28. Amend paragraph **64.4(2)“a”** as follows:

a. The director may issue general permits which are consistent with 64.4(2)“b” and the requirements specified in 567—64.6(455B), 567—64.7(455B), subrule 64.8(2), and 567—64.9(455B) ~~for the following activities to regulate one or more categories or subcategories of discharges where the sources within a covered category of discharges are either storm water point sources, point sources other than storm water point sources, or treatment works treating domestic sewage, if the sources within each category or subcategory meet all of the following criteria:~~

~~(1) Storm water point sources requiring an NPDES permit pursuant to Section 402(p) of the federal Clean Water Act and 40 CFR 122.26.~~

~~(2) Private sewage disposal system discharges permitted under 567 Chapter 69 where subsoil discharge is not possible as determined by the administrative authority.~~

~~(3) Discharges from water well construction and related well services where the discharge will reach a water of the United States as defined in 40 CFR Part 122.2.~~

~~(4) For any discharge, except a storm water only discharge, from a mining or processing facility.~~

~~(5) Discharges from the application of biological pesticides and chemical pesticides which leave a residue where the discharge will reach a water of the United States as defined in 40 CFR Part 122.2.~~

~~(6) Discharges from hydrostatic testing, tank ballasting and water lines.~~

~~(7) Discharges from dewatering and residential geothermal systems.~~

(1) Involve the same or substantially similar types of operations;

(2) Discharge the same types of wastes;

(3) Require the same effluent limitations or operating conditions;

(4) Require the same or similar monitoring; and

(5) Are more appropriately controlled under a general permit than under individual permits.

ITEM 29. Amend subrule 64.5(2) as follows:

64.5(2) Public notice for individual NPDES permits.

a. Prior to the issuance of an NPDES permit, a major NPDES permit amendment, or the denial of a permit application for an NPDES permit, public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the proposed discharge and of the tentative determination to issue or deny an NPDES permit for the proposed discharge. ~~Procedures for the circulation of public notice shall include at least the procedures of subparagraphs (1) to (4).~~

~~(1) The public notice for a draft NPDES permit or major permit amendment shall be circulated by the applicant within the geographical areas of the proposed discharge by posting the public notice in public places of the city nearest the premises of the applicant in which the effluent source is located and by posting the public notice near the entrance to the applicant's premises and in nearby places. shall be transmitted by the department to the following persons:~~

1. The applicant;

2. Any other federal or state agency which has issued or is required to issue an NPDES permit for the same facility or activity, including EPA;

3. Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, state historic preservation officers, and affected states (the term "state" includes Indian Tribes treated as states);

4. Any state agency responsible for the development of an areawide waste treatment management plan or a water quality standards and implementation plan under CWA Section 208(b)(2), 208(b)(4) or 303(e);

5. The U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;

6. Any user identified in the permit application of a privately owned treatment works;

7. Any unit of local government having jurisdiction over the area where the facility is located; and

8. Each state agency having any authority under state law with respect to the construction or operation of such facility.

~~(2) The public notice for the denial of a permit application shall be sent to the applicant and circulated by the department within the geographical areas of the proposed discharge by publishing the public notice in local newspapers and periodicals or, if appropriate, in a newspaper of general circulation.~~

~~(3) (2) The public notice shall be sent transmitted by the department to any person upon request.~~

~~(4) (3) Upon request, the department shall add the name of any Any person or group may request to the distribution list to receive copies of all public notices concerning the tentative determinations with~~

respect to the permit applications within the state or within a certain geographical area ~~and shall send~~. The department shall transmit a copy of all public notices to such persons or groups.

(4) The department shall periodically notify the public of the opportunity to receive notices. The director may update the notice distribution list from time to time by requesting written indication of continued interest from those listed. The director may delete from the list the name of any person or group who fails to respond to such a request.

~~b. In addition to the requirements in paragraph 64.5(2) "a," prior to the issuance of a major NPDES permit or a major permit amendment to a major NPDES permit, the public notice shall be published by the applicant in local newspapers and periodicals or, if appropriate, in a newspaper of general circulation. Publication of a public notice is not required prior to the issuance of the following: The director may publish all notices of activities described in paragraph "a" of this subrule to the department's website. If this option is selected for a draft permit, the director must post the draft permit and permit rationale on the website for the duration of the public comment period.~~

~~(1) A minor NPDES permit,~~

~~(2) A minor permit amendment, or~~

~~(3) A major permit amendment to a minor NPDES permit.~~

~~Major and minor NPDES permits and major and minor permit amendments are defined in 567—60.2(455B).~~

c. The department shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the tentative determinations with respect to the permit application and request a public hearing pursuant to 64.5(6). Written comments may be submitted by paper or electronic means. All pertinent comments submitted during the 30-day comment period shall be retained by the department and considered by the director in the formulation of the director's final determinations with respect to the permit application. The period for comment may be extended at the discretion of the department. Pertinent and significant comments received during either the original comment period or an extended comment period shall be responded to in a responsiveness summary pursuant to 64.5(8).

d. The contents of the public notice of a draft NPDES permit, a major permit amendment, or the denial of a permit application for an NPDES permit shall include at least the following:

(1) The name, address, and telephone number of the department.

(2) The name and address of each applicant.

(3) A brief description of each applicant's activities or operations which result in the discharge described in the permit application (e.g., municipal waste treatment plant, corn wet milling plant, or meat packing plant).

(4) The name of the waterway to which each discharge of the applicant is made and a short description of the location of each discharge of the applicant on the waterway ~~indicating whether such discharge is a new or an existing discharge.~~

(5) A statement of the department's tentative determination to issue, amend, or deny an NPDES permit for the discharge or discharges described in the permit application.

(6) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by paragraph "~~b~~" "c" of this subrule, procedures for requesting a public hearing and any other means by which interested persons may influence or comment upon those determinations.

(7) The address, telephone number, ~~and~~ email address, and website of places at which interested persons may obtain further information, request a copy of the tentative determination and any associated documents prepared pursuant to 64.5(1), request a copy of the permit rationale described in 64.5(3), and inspect and copy permit forms and related documents.

e. No public notice is required for a minor permit amendment, including but not limited to an amendment to correct typographical errors, include more frequent monitoring requirements, revise interim compliance schedule dates, change ~~the an~~ owner or facility name or address, include a local pretreatment program, or remove a point source outfall that does not result in the discharge of pollutants from other outfalls.

f. No change.

ITEM 30. Amend subrule 64.5(6) as follows:

64.5(6) *Public hearings on proposed NPDES permits.* The applicant, any affected state, the regional administrator, or any interested agency, person or group of persons may request or petition for a public hearing with respect to an NPDES application. Any such request shall clearly state issues and topics to be addressed at the hearing. Any such request or petition for public hearing must be filed with the director within the 30-day period prescribed in 64.5(2) "~~b~~" 64.5(2) "c" and shall indicate the interest of the party filing such request and the reasons why a hearing is warranted. The director shall hold an informal and noncontested case hearing if there is a significant public interest (including the filing of requests or petitions for such hearing) in holding such a hearing. Frivolous or insubstantial requests for hearing may be denied by the director. Instances of doubt should be resolved in favor of holding the hearing. Any hearing held pursuant to this subrule shall be held in the geographical area of the proposed discharge when possible, or other appropriate area ~~in~~ at the discretion of the director; ~~and~~. Web-based hearings may also be held at the discretion of the director. In addition, any hearing held pursuant to this subrule may, as appropriate, consider related groups of permit applications.

ITEM 31. Amend subrule 64.5(7) as follows:

64.5(7) *Public notice of public hearings on proposed NPDES permits.*

a. Public notice of any hearing held pursuant to 64.5(6) shall be circulated at least as widely as was the notice of the tentative determinations with respect to the permit application. Notice pursuant to this paragraph shall be made at least 30 days in advance of the hearing.

~~(1) Notice shall be published in at least one newspaper of general circulation within the geographical area of the discharge;~~

~~(2) (1) Notice shall be sent transmitted to all persons and government agencies which received a copy of the notice for the permit application; and~~

~~(3) (2) Notice shall be mailed transmitted to any person or group upon request; and~~

~~(4) Notice pursuant to subparagraphs (1) and (2) of this paragraph shall be made at least 30 days in advance of the hearing.~~

b. The contents of public notice of any hearing held pursuant to 64.5(6) shall include at least the following:

(1) The name, address, and telephone number of the department;

(2) The name and address of each applicant whose application will be considered at the hearing;

(3) The name of the water body to which each discharge is made and a short description of the location of each discharge to the water body;

(4) A brief reference to the public notice issued for each NPDES application, including the date of issuance;

(5) Information regarding the time and location for the hearing;

(6) The purpose of the hearing;

(7) A concise statement of the issues raised by the person or persons requesting the hearing;

(8) The address, ~~and telephone number of the premises,~~ email address, and website where interested persons may obtain further information, request a copy of the draft NPDES permit prepared pursuant to 64.5(1), request a copy of the permit rationale prepared pursuant to 64.5(3), and inspect and copy permit forms and related documents;

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed; and

(10) The final date for submission of comments (~~paper or electronic~~) regarding the tentative determinations with respect to the permit application.

ITEM 32. Amend subrule 64.6(1) as follows:

64.6(1) *Contents of a complete Notice of Intent.* An applicant proposing to conduct activities covered by a general permit shall file a complete ~~Notice of Intent~~ NOI by submitting to the department materials required in paragraphs "a" to "c" of this subrule ~~except that a Notice of Intent, as applicable.~~ An NOI is

not required for discharges authorized under General Permit No. 6 or No. 7, for certain discharges under General Permit No. 8, or for certain discharges under General Permit No. 9.

a. Notice of Intent (NOI) Application Form. ~~The following Notice of Intent forms must be completed in full. Electronic NOI forms provided by the department must be completed in full on the department's website. Paper NOI forms, when provided, must be completed in full.~~

~~(1) General Permit No. 1 "Storm Water Discharge Associated with Industrial Activity," Form 542-1415.~~

~~(2) General Permit No. 2 "Storm Water Discharge Associated with Industrial Activity for Construction Activities," Form 542-1415.~~

~~(3) General Permit No. 3 "Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants and Construction Sand and Gravel Facilities," Form 542-1415.~~

~~(4) General Permit No. 4 "Discharge from On-Site Wastewater Treatment and Disposal Systems," Form 542-1541.~~

~~(5) General Permit No. 5 "Discharge from Mining and Processing Facilities," Form 542-4006.~~

~~(6) General Permit No. 7, "Pesticide General Permit (PGP) for Point Source Discharges to Waters of the United States From the Application of Pesticides."~~

~~(7) General Permit No. 8 "Discharge from Hydrostatic Testing, Tank Ballasting and Water Lines."~~

~~(8) General Permit No. 9 "Discharge from Dewatering and Residential Geothermal Systems."~~

b. General permit fee. The applicable general permit fee according to the schedule in 567—64.16(455B) is payable to the Iowa Department of Natural Resources.

c. Public notification. ~~The following public notification requirements must be completed for the corresponding general permit only apply to General Permits No. 1, No. 2 and No. 3.~~

~~(1) Applicants for General Permits No. 1, No. 2 and No. 3—A demonstration must demonstrate that a public notice was published in at least one newspaper with the largest circulation in the area in which the facility is located or the activity will occur.~~

~~(2) The newspaper notice shall, at the minimum, contain the following information:~~

PUBLIC NOTICE OF STORM WATER DISCHARGE

The (applicant name) plans to submit a Notice of Intent to the Iowa Department of Natural Resources to be covered under NPDES General Permit (select the appropriate general permit—No. 1 "Storm Water Discharge Associated with Industrial Activity", ~~or~~ General Permit No. 2 "Storm Water Discharge Associated with Industrial Activity for Construction Activities" or General Permit No. 3 "Storm Water Discharge Associated with Industrial Activity for Asphalt Plants, Concrete Batch Plants, Rock Crushing Plants, and Construction Sand and Gravel Facilities"). The storm water discharge will be from (description of industrial activity) located in (¼ section, township, range, county). Storm water will be discharged from (number) point source(s) and will be discharged to the following streams: (stream name(s)).

Comments may be submitted to the Storm Water Discharge Coordinator, Iowa Department of Natural Resources, 502 East 9th Street, Des Moines, Iowa 50319-0034. The public may review the Notice of Intent from 8 a.m. to 4:30 p.m., Monday through Friday, at the above address after it has been received by the department.

~~(2) General Permits No. 4, No. 5, No. 6, No. 7, No. 8 and No. 9. There are no public notification requirements for these permits.~~

ITEM 33. Amend subrule 64.6(2) as follows:

64.6(2) Authorization to discharge under a general permit. Upon the submittal of a complete Notice of Intent NOI in accordance with 64.6(1) and 64.3(4) "b," the applicant is authorized to discharge after evaluation of the Notice of Intent by the department is complete and the determination has been made that the contents of the Notice of Intent satisfy the requirements of 567—Chapter 64. The discharge authorization date for all storm water discharges associated with industrial activity that are in existence on or before October 1, 1992, shall be October 1, 1992. the department has determined that the contents of the NOI satisfy the requirements of 567—Chapter 64, evaluated the NOI, and determined that the

proposed discharge meets the requirements of the general permit. The applicant will receive notification ~~by~~ from the department of coverage under the general permit. If any of the items required for filing a ~~Notice of Intent~~ an NOI specified in 64.6(1) are missing, the department will consider the application incomplete and will notify the applicant of the incomplete items. If the discharge described in the NOI does not meet the requirements of the general permit, the NOI may be denied. The department will notify applicants of denial within 30 days.

Authorization to discharge is automatic only for the general permits that do not require an NOI under 64.3(4), provided the discharge is a covered activity and the permittee complies with all applicable permit requirements.

ITEM 34. Amend subrule 64.6(3) as follows:

64.6(3) *General permit suspension or revocation.* In addition to the causes for suspension or revocation which are listed in 64.3(11), the director may suspend or revoke coverage under a general permit issued to a facility or a class of facilities for the following reasons and require the applicant to apply for an individual NPDES permit in accordance with 64.3(4) “a”:

a. The discharge would not comply with Iowa’s water quality standards pursuant to 567—Chapter 61, or

b. The department finds that the activities associated with ~~a Notice of Intent~~ an NOI filed with the department do not meet the conditions of the applicable general permit. ~~The department will notify the affected discharger and establish a deadline, not longer than one year, for submitting an individual permit application, or~~

c. ~~The department finds that water well construction and well service any discharge are covered under a general permit is not managed in a manner consistent with the conditions specified in General Permit No. 6, or the applicable general permit.~~

d. ~~The department finds that discharges from biological pesticides and chemical pesticides which leave a residue are not managed in a manner consistent with the conditions specified in General Permit No. 7, or~~

e. ~~The department finds that discharges from hydrostatic testing, tank ballasting or water line testing are not managed in a manner consistent with the conditions specified in General Permit No. 8, or~~

f. ~~The department finds that discharges from dewatering or residential geothermal systems are not managed in a manner consistent with the conditions specified in General Permit No. 9.~~

The department will notify the affected discharger and establish a deadline, not longer than one year, for submitting an individual permit application.

ITEM 35. Amend subrule 64.6(4) as follows:

64.6(4) *Eligibility for individual NPDES permit holders.* A person holding an individual NPDES permit for an activity covered by a general permit may apply for coverage under a general permit ~~upon expiration of the individual permit and by filing a Notice of Intent~~ an NOI according to procedures described in 64.3(4) “b-” and 567—64.6(455B). In addition to these requirements, the permittee must submit a written request, with the NOI, to close or revoke the individual NPDES permit or to amend the individual NPDES permit to remove the general permit-covered activity.

a. Upon receipt of a complete NOI and request for closure, revocation or amendment of an individual NPDES permit, the applicant shall be authorized to discharge under the general permit in accordance with 64.6(2). The applicant will receive notification by the department of coverage under the general permit and of the closure, revocation or amendment of the individual permit.

b. Authorization to discharge under a general permit that does not require an NOI will be automatic in accordance with 64.6(2) and shall commence upon completion of individual NPDES permit closure, revocation, or amendment.

c. Individual NPDES permit amendments under this subrule shall follow the applicable public notice procedures in 567—64.5(455B).

ITEM 36. Amend subrule 64.6(5), introductory paragraph, as follows:

64.6(5) *Filing a Notice of Discontinuation.* A notice to discontinue ~~the discharge associated with an activity covered by the NPDES~~ a general permit shall be made electronically or in writing to the

department 30 days prior to or after discontinuance of the discharge. For storm water discharge associated with industrial activity for construction activities, the discharge will be considered as discontinued when “final stabilization” has been reached. Final stabilization means that all soil-disturbing activities at the site have been completed and that a uniform perennial vegetative cover with a density of 70 percent for the area has been established or equivalent stabilization measures have been employed in accordance with the conditions established in each general permit.

ITEM 37. Amend paragraph **64.7(5)“b”** as follows:

b. Disadvantaged community analysis (DCA). A regulated entity or affected community must submit a ~~disadvantaged community analysis (DCA)~~ DCA to the director to be considered for disadvantaged status. ~~A DCA may only be submitted when new requirements in a proposed or reissued NPDES permit may result in SWESI.~~

(1) A When new requirements in a proposed or reissued NPDES permit may result in SWESI, a DCA may be submitted by any of the following:

1. A wastewater disposal system owned by a municipal corporation or other public body created by or under Iowa law and having jurisdiction over disposal of sewage, industrial wastes or other wastes, or a designated and approved management agency under Section 208 of the Act (a POTW);

2. A wastewater disposal system for the treatment or disposal of domestic sewage which is not a private sewage disposal system and which is not owned by a city, a sanitary sewer district, or a designated and approved management agency under Section 208 of the Act (33 U.S.C. 1288) (a semipublic system); or

3. Any other owner of a wastewater disposal system that is not a private sewage disposal system and does not discharge industrial wastes. “Private sewage disposal system” and “industrial waste” are defined in rule 567—60.2(455B).

(2) A DCA may be submitted prior to the issuance of an initial NPDES permit if the facility does not discharge industrial wastes and is not a new source or new discharger. “New source” is and “new discharger” are defined in rule 567—60.2(455B). ~~“New discharger” means any building, structure, facility, or installation from which there is or may be a discharge of pollutants; that did not commence the discharge of pollutants at a particular site prior to August 13, 1979; that is not a new source; and that has never received a finally effective NPDES permit for discharges at that site.~~

(3) A DCA may be submitted by the entities noted in subparagraph 64.7(5)“b”(1) above for consideration of a disadvantaged community loan interest rate under the clean water state revolving fund, independent of the requirements in a proposed or reissued NPDES permit.

ITEM 38. Amend subparagraph **64.7(5)“c”(2)** as follows:

(2) If the DCA is submitted by or for an entity other than a municipality, community, or water treatment facility, the DCA must also contain either:

1. For entities with more than ten households or ratepayers, the median household or ratepayer income, as determined by an income survey conducted by the regulated entity ~~based on the Iowa community development block grant income survey guidelines~~ (the survey must be included in the DCA); or

2. No change.

ITEM 39. Amend paragraph **64.7(5)“e”** as follows:

e. Disadvantaged community matrix (DCM). The department hereby incorporates by reference “Disadvantaged Community Matrix,” DNR Form 542-1246, ~~effective January 16, 2013.~~ This document may be obtained on the department’s NPDES website.

Upon receipt of a complete DCA, the director shall use the ~~disadvantaged community matrix (DCM)~~ DCM to evaluate the disadvantaged status of the community. The DCM shall be used to evaluate DCAs submitted in accordance with 64.7(5)“b.” Compliance with the applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department shall be considered to result in SWESI, and the regulated entity and affected community shall be considered a disadvantaged community, if the point total derived from the DCM is equal to or greater than 12. The following data sources shall be used to derive the point total in the DCM:

- (1) The total annual project costs as stated in the DCA;
- (2) The number of households or ratepayers in a community as stated in the DCA;
- (3) The bond rating of the community, if available, as stated in the DCA;
- (4) The MHI of either:
 1. The community, as found in the most recent American Community Survey or United States Census or as stated in an income survey that is conducted by the regulated entity or community ~~and is based on the Iowa community development block grant income survey guidelines~~; or
 2. The ratepayer group, as stated in an income survey that is conducted by the regulated entity ~~and is based on the Iowa community development block grant income survey guidelines~~; and
- (5) The unemployment rate of the county where the community is located and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

The ratio of the total annual project costs per household or per ratepayer to MHI shall be calculated in the DCM as follows: The total annual project costs shall be divided by the number of households or ratepayers to obtain the costs per household or per ratepayer, and the costs per household or per ratepayer shall be divided by the MHI to obtain the ratio.

ITEM 40. Amend paragraph **64.7(6)“b”** as follows:

b. Disadvantaged unsewered community analysis (DUCA). ~~To be considered for disadvantaged unsewered community status, an unsewered community may submit a disadvantaged unsewered community analysis (DUCA) to the director prior to the issuance of or amendment to an administrative order with requirements that could result in SWESI and that are based on applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department. An unsewered community must submit a DUCA to the director to be considered for disadvantaged unsewered community status.~~ Only unsewered communities may submit a DUCA under this subrule. For the purposes of this subrule, an unsewered community is defined as a grouping of ten or more residential houses with a density of one house or more per acre and with either no wastewater treatment or inadequate wastewater treatment. An entity defined in rule 567—60.2(455B) as a private sewage disposal system may not submit a DUCA or qualify for a disadvantaged unsewered community compliance agreement under paragraph 64.7(6)“g.”

(1) An unsewered community may submit a DUCA to the director prior to the issuance of or amendment to an administrative order with requirements that could result in SWESI and that are based on applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department.

(2) A DUCA may also be submitted for consideration of a disadvantaged community loan interest rate under the clean water state revolving fund, independent of an administrative order.

ITEM 41. Amend paragraph **64.7(6)“c”** as follows:

c. Contents of a DUCA. A DUCA must contain all of the following:

- (1) Proposed total annual project costs as defined in paragraph 64.7(6)“d”;
- (2) The number of households in the unsewered community and source of household information;
- (3) Total amount of any awarded grant funding; and
- (4) An explanation of why the unsewered community believes that compliance with the proposed requirements will result in SWESI.

If no MHI information is available for the unsewered community, the community should conduct a rate survey to determine the MHI. ~~The survey must be conducted in accordance with the Iowa community development block grant income survey guidelines. In addition, the survey must be attached to the DCA.~~

ITEM 42. Amend paragraph **64.7(6)“e”** as follows:

e. Disadvantaged unsewered community matrix (DUCM). The department hereby incorporates by reference “Disadvantaged Unsewered Community Matrix,” DNR Form 542-1247, ~~effective January 16, 2013.~~ This document may be obtained on the department’s NPDES website.

Upon receipt of a complete DUCA, the director shall use the ~~disadvantaged unsewered community matrix (DUCM)~~ DUCM to evaluate the disadvantaged status of the unsewered community. The DUCM shall be used to evaluate DUCAs submitted in accordance with 64.7(6)“b.” Compliance with

applicable federal regulations, requirements in 567—Chapters 60, 61, 62, 63, and 64, or an order of the department shall be considered to result in SWESI, and the unsewered community shall be considered a disadvantaged unsewered community, if the point total derived from the DUCM is equal to or greater than 10. The following data sources shall be used to derive the point total in the DUCM:

- (1) The total annual project costs as stated in the DUCA;
- (2) The number of households in the unsewered community as stated in the DUCA;
- (3) The MHI of the unsewered community as found in the most recent American Community Survey or United States Census or as stated in an income survey that is conducted by the ~~regulated entity or unsewered community and is based on the Iowa community development block grant income survey guidelines;~~ and
- (4) The unemployment rate of the county where the unsewered community is located and of the state as found in the most recent Iowa Workforce Information Network unemployment data.

The ratio of the total annual project costs per household to MHI shall be calculated in the DUCM as follows: the total annual project costs shall be divided by the number of households in the unsewered community to obtain the costs per household, and the costs per household shall be divided by the MHI to obtain the ratio.

ITEM 43. Amend subrule 64.8(2) as follows:

64.8(2) *Renewal of coverage under a general permit.* Coverage under a general permit will be renewed subject to the terms and conditions in paragraphs ~~“a” to “d.”~~ and ~~“b.”~~

a. If a permittee intends to continue an activity covered by a general permit for which an NOI is required beyond the expiration date of the general permit, the permittee must reapply and submit a complete ~~Notice of Intent~~ NOI in accordance with 64.6(1) the requirements specified in the applicable general permit.

~~*b.* A complete Notice of Intent for coverage under a reissued or renewed general permit must be submitted to the department within 180 days after the expiration date of a general permit.~~

~~*c. b.* A person holding a general permit is subject to the terms of the permit until it either the permit expires, the authorization under the permit expires, or a Notice of Discontinuation is submitted in accordance with 64.6(5).~~

~~(1) If the person holding a general permit continues the activity beyond the expiration date of the permit and the permit will be reissued, the conditions of the expired general permit will remain in effect provided the permittee submits a complete Notice of Intent NOI for coverage under a renewed or reissued general permit within 180 days after the expiration date of the expired as required by the applicable general permit.~~

~~(2) If the person holding a general permit continues an the activity for which the general permit has expired beyond the expiration date of the permit and the general permit has not been will not be reissued or renewed, the discharge must be permitted with an individual NPDES permit according to the procedures in 64.3(4) “a.”~~

~~*d.* The Notice of Intent requirements shall not include a public notification when a general permit has been reissued or renewed provided the permittee has already submitted a complete Notice of Intent including the public notification requirements of 64.6(1). Another public notice is required when any information, including facility location, in the original public notice is changed.~~

ITEM 44. Amend rule 567—64.10(455B) as follows:

567—64.10(455B) *Silvicultural activities.* The following is adopted by reference: 40 CFR Section 122.27.

ITEM 45. Amend subrule 64.13(1) as follows:

64.13(1) The following is adopted by reference: 40 CFR Section 122.26.

ITEM 46. Amend rule 567—64.14(455B) as follows:

567—64.14(455B) *Transfer of title and owner or operator address change.*

~~64.14(1) Permits issued under rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B), except 64.6(1)“a”(5) and (6). If title to any disposal system or part thereof for which a permit has been issued under these rules rule 567—64.2(455B), 567—64.3(455B), or 567—64.6(455B) is transferred, the new owner or owners shall be subject to all terms and conditions of the permit. Whenever title to a disposal system or part thereof is changed, the department shall be notified in writing of such change within 30 days of the occurrence. When a discharge is covered by a general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer of title. Whenever the address of the owner is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all title transfers and address changes must be reported to the department by mail.~~

~~64.14(2) Permits issued under 64.6(1)“a”(5) and (6). When the operator of a facility permitted under subparagraphs 64.6(1)“a”(5) and (6) changes, the department must be notified of the transfer within 30 days. When a discharge is covered by the general permit, the operator of record shall be subject to all terms and conditions of the permit. No transfer of the authorization to discharge from the facility represented by the permit shall take place prior to notification of the department of the transfer. Whenever the address of the operator is changed, the department shall be notified in writing within 30 days of the address change. Electronic notification is not sufficient; all transfers and address changes must be reported to the department by mail.~~

ITEM 47. Amend subrule 64.16(1) as follows:

64.16(1) A person who applies for an individual permit ~~or coverage under a general permit to construct, install, modify or~~ to operate a disposal system shall submit along with the application an application fee ~~or a permit fee or both~~ as specified in 64.16(3). ~~64.16(3)“b.”~~ Certain individual facilities shall also be required to submit annual fees as specified in 64.16(3)“b.” ~~Fees shall be assessed based on the type of permit coverage the applicant requests, either as general permit coverage or as an individual permit. For a wastewater construction permit, an application fee must be submitted with the application, as specified in 64.16(3)“c.” For authorization under General Permits Nos. 1, 2, 3 and 5, the applicant has the option of paying an annual permit fee or a multiyear permit fee at the time the Notice of Intent NOI for coverage is submitted, as specified in 64.16(3)“a.”~~

For municipal separate storm sewer system (MS4s) permits and individual storm water only permits, as defined in 567—60.2(455B), a one-time, multiyear permit fee must be submitted at the time of application. ~~A storm water only permit is defined as an NPDES permit that authorizes the discharge of only storm water and any allowable non-storm water as defined in the permit.~~ For all other individual non-storm water NPDES permits and operation permits, as defined in 567—60.2(455B), the applicant must submit an application fee at the time of application and the appropriate annual fee on a yearly basis, except for municipal water treatment facilities. ~~A non-storm water NPDES permit is defined as any individual NPDES permit or operation permit issued to a municipality, industry, semipublic entity, or animal feeding operation that is not an individual storm water only permit. If a facility needs coverage under more than one NPDES or operation permit, fees for each permit must be submitted appropriately.~~

Fees are nontransferable. Failure to submit the appropriate fee at the time of application renders the application incomplete, and the department shall suspend processing of the application until the fee is received. Failure to submit the appropriate annual fee may result in revocation or suspension of the permit as noted in ~~64.3(11)“f.”~~ 64.3(11).

ITEM 48. Amend subrule 64.16(2) as follows:

64.16(2) Payment of fees. Fees shall be paid by check, credit card, electronic payment, or money order made payable to the “Iowa Department of Natural Resources.”

For facilities needing coverage ~~under both a storm water only permit and a non-storm water NPDES permit~~ more than one permit (e.g., general, individual storm water, individual non-storm water), separate payments shall be made according to the fee schedule in 64.16(3).

ITEM 49. Amend subrule 64.16(3) as follows:

64.16(3) Fee schedule. The following fees have been adopted:

~~a. For coverage under the NPDES general permits, the following fees apply:~~ General permit fees. No fees shall be assessed for coverage under general permits not listed in this paragraph. The following fees are applicable to the described general permits:

(1) Storm Water Discharges Associated with Industrial Activity, NPDES General Permit No. 1.

Annual Permit Fee \$175(per year)

or

Five-year Permit Fee \$700

Four-year Permit Fee \$525

Three-year Permit Fee \$350

All fees are to be submitted with the ~~Notice of Intent~~ NOI for coverage under the general permit.

(2) Storm Water Discharge Associated with Industrial Activity for Construction Activities, NPDES General Permit No. 2. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

(3) Storm Water Discharge Associated with Industrial Activity from Asphalt Plants, Concrete Batch Plants, and Rock Crushing Plants, NPDES General Permit No. 3. The fees are the same as those specified for General Permit No. 1 in subparagraph (1) of this paragraph.

~~(4) Discharge from Private Sewage Disposal Systems, NPDES Permit No. 4. No fees shall be assessed.~~

~~(5)~~ (4) Discharge from Mining and Processing Facilities, NPDES General Permit No. 5.

Annual Permit Fee \$125 (per year)

or

Five-year Permit Fee \$500

Four-year Permit Fee \$400

Three-year Permit Fee \$300

New facilities seeking General Permit No. 5 coverage shall submit fees with the ~~Notice of Intent~~ NOI for coverage. Maximum coverage is for five years. Coverage may also be obtained for four years, three years, or one year, as shown in the fee schedule above. Existing facilities shall submit annual fees by August 30 of every year, unless a multiyear fee payment was received in an earlier year. In the event a facility is no longer eligible to be covered under General Permit No. 5, the remainder of the fees previously paid by the facility shall be applied toward its individual permit fees.

b. Individual NPDES and operation permit fees. The following fees are applicable for the described individual ~~NPDES permit permits~~:

(1) For individual storm water permits ~~that authorize the discharge of only storm water associated with industrial activity and any allowable non-storm water~~, a five-year permit fee of \$1,250 must accompany the application.

(2) For permits that authorize the discharge of only storm water from municipal separate storm sewer systems (MS4s) and any allowable non-storm water, a five-year permit fee of \$1,250 must accompany the application.

(3) For ~~operation and individual~~ non-storm water NPDES ~~and operation~~ permits ~~not subject to subparagraphs (1) and (2)~~, a single application fee of \$85 as established in Iowa Code section 455B.197 is due at the time of application. The \$1,250 fee in subparagraphs (1) and (2) is not required for individual non-storm water permits that authorize storm water discharges along with other wastewater discharges. The \$85 application fee is to be submitted with the application forms (as required by 567—Chapter 60) at the time of a new application, renewal application, or amendment application. Before an approved amendment request submitted by a facility holding a non-storm water NPDES or operation permit can be processed by the department, the application \$85 fee must be submitted. ~~Application fees will not be charged to facilities holding non-storm water NPDES permits, except when an amendment request~~

is initiated by the director, when the requested amendment will correct an error in the permit, when the amendment is for a disadvantaged community compliance schedule or nutrient reduction strategy, or when there is a transfer of title or change in the address of the owner as noted in 567—64.14(455B).

(4) ~~For every major and minor municipal facility, every semipublic facility, every major and minor industrial facility, every facility that holds an operation permit (no wastewater discharge into surface waters), and every open feedlot animal feeding operation required to hold a non-storm water NPDES permit, an individual non-storm water NPDES and operation permits, the following annual fee fees, as established in Iowa Code section 455B.197 is, are due by August 30 of each year:~~

1. Major municipal facility: \$1,275.
2. Minor municipal facility: \$210. For a city with a population of 250 or less, the maximum fee shall be \$210 regardless of how many individual non-storm water NPDES permits the city holds.
3. Semipublic facility: \$340.
4. Major industrial facility: \$3,400.
5. Minor industrial facility: \$300.
6. Facilities that hold an operation permit: \$170.
7. Animal feeding operations covered by a non-storm water NPDES permit: \$340.

(5) ~~For every a municipal water treatment facility with a an individual non-storm water NPDES permit, no fee is charged (as established in Iowa Code section 455B.197) fees shall be assessed.~~

(6) ~~For a new facility covered by an individual non-storm water NPDES or operating permit, an a prorated annual fee as established in Iowa Code section 455B.197, calculated by taking the annual fee amount multiplied by the number of months remaining before the next annual fee due date divided by 12, is due 30 days after the new permit is issued.~~

c. No change.

ITEM 50. Rescind subrules **64.16(5)** to **64.16(8)**.

ITEM 51. Renumber subrule **64.16(9)** as **64.16(5)**.

ITEM 52. Renumber rules **567—64.17(455B)** and **567—64.18(455B)** as **567—64.18(455B)** and **567—64.19(455B)**.

ITEM 53. Adopt the following new rule 567—64.17(455B):

567—64.17(455B) Nutrient reduction exchange. The department shall maintain a registry of nonpoint source nutrient reduction practices installed by permittees. Practices listed in the registry may be eligible for future regulatory incentives.